

EXHIBIT 3

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LIFE AFTER HATE, INC., a/k/a EXITUSA,)	
)	
Plaintiff,)	Case No. 18-cv-06967
)	
v.)	Judge Virginia M. Kendall
)	
FREE RADICALS PROJECT INC., and)	Magistrate Judge Jeffrey Cole
CHRISTIAN PICCIOLINI,)	
)	
Defendants.)	

**DEFENDANT FREE RADICALS PROJECT INC.’S
SUPPLEMENTAL AND AMENDED OBJECTIONS AND RESPONSES TO
PLAINTIFF’S FIRST REQUESTS TO PRODUCE**

Defendant, FREE RADICALS PROJECT INC. (“FRP”), by and through its undersigned counsel, for its supplemental and amended objections and responses to Plaintiff’s First Requests to Produce, states as follows.

GENERAL OBJECTIONS

1. FRP objects to Plaintiff’s First Requests to Produce (hereafter referred to as the “Requests”) to the extent they seek information or documents, or to impose obligations, beyond those required by the Federal Rules of Civil Procedure and/or the Local Rules of the United States District Court for the Northern District of Illinois, Eastern Division.

2. FRP objects to Plaintiff’s Requests to the extent they call for documents or information not within its possession, custody, control, or knowledge, or that are as readily accessible to Plaintiff as they are to FRP, including but not limited to documents or information that are publicly available or available from third parties.

3. FRP objects to Plaintiff’s Requests to the extent they seek material protected by the attorney-client privilege, the attorney work-product doctrine, and/or any other applicable

privilege, or to the extent that they are otherwise protected from discovery. To enable Plaintiff to evaluate FRP's assertions of privilege, FRP states that it respectfully declines to produce or log any files, records, documents or other things, relating to its communications with undersigned counsel and/or that were created on or after the date that the Complaint was filed.

4. FRP objects to the extent that Plaintiff's Requests seek "all" information and documents to the extent the production of "all" documents or information pertaining to a particular subject matter is overbroad, unduly burdensome, and/or not reasonably calculated to lead to the discovery of admissible evidence in that it is unreasonably cumulative and/or duplicative.

5. FRP objects to the extent that Plaintiff's requests seek disclosure of names or other personal identifying information regarding any person who has received services from Christian Picciolini and/or FRP because such information is highly confidential and disclosure of the same constitutes a breach of confidence and trust held with those individuals, and disclosure of such personal identifying information may endanger those persons. Therefore, FRP will not disclose such personal identifying information in response to any Request.

6. FRP's identification of information or responsive documents in response to an individual Request is based on its investigation, review, and production to date, and does not necessarily include "all" information and documents which may ultimately be determined to be responsive to any given Request.

7. A response that FRP will produce documents is not an indication that any documents exist, but only a representation that they will be produced if such documents do exist.

8. In providing any of the information requested, FRP does not concede the relevance thereof to the subject matter of this proceeding. FRP's responses are made expressly

preserving the right to raise all questions of relevance and admissibility and to object on any grounds to the use of any responses to Plaintiff's Requests. The fact that FRP has answered or responded to any Request or any part thereof subject to objections does not waive all or any part of any objection to any Request.

9. FRP reserves the right to modify or supplement its answers and objections to Plaintiff's Requests, which are made based on the current status of knowledge, understanding, belief, and search for information and documents. The investigation of facts and information relating to this proceeding is continuing, and therefore, these answers are not intended as an admission or a representation that additional or different information or facts do or do not exist.

10. Subject to and without waiving its General Objections, which are incorporated in and made part of each specific response to Plaintiff's individual Requests, FRP responds as follows:

SPECIFIC OBJECTIONS AND RESPONSES

1. All Documents, ESI, Communications, and Other Things regarding all current board members, employees, agents, volunteers, contractors, and any and all others associated with Free Radicals Project Inc.

RESPONSE: In addition to its General Objections, FRP objects to Request 1 on the ground that it is overly broad and unduly burdensome on the grounds that it seeks documents not relevant to the preliminary injunction motion because the existence or identity of individuals who are currently involved with FRP is not a consideration by the court in a likelihood of consumer confusion analysis over use of trademarks. Further, merely because other individuals are currently involved with FRP is not a basis for which Plaintiff seeks injunctive relief. FRP is not subject to a non-compete or non-solicitation agreement, nor does Plaintiff allege there to be

an non-solicitation or non-compete agreement at issue in the preliminary injunction motion. Therefore, because this request does not seek documents relating to alleged infringement of the trademarks, it is not proportional to the needs of the preliminary injunction motion and it is not reasonably calculated to lead to the discovery of admissible evidence. FRP further objects to Request 1 as overbroad on the grounds that it seeks documents that are not proportional to the needs of this lawsuit. Subject to and without waiving its general and specific objections, and as limited thereby, FRP will produce its articles of incorporation in Response to Request 1. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

2. All Documents, ESI, Communications, and Other Things regarding all board meeting minutes and resolutions from May 2018 through the present, and all articles and by-laws of Free Radicals Project Inc.

RESPONSE: In addition to its General Objections, FRP objects to Request 2 as overly broad and unduly burdensome because internal meeting minutes, articles, and by-laws of FRP are not consumer facing documents and therefore this request is not relevant to a likelihood of consumer confusion analysis over use of trademarks. Further, merely because FRP is an active and operating entity is not grounds for which Plaintiff is seeking injunctive relief. FRP is not subject to a non-compete or non-solicitation agreement, nor does Plaintiff allege there to be an non-solicitation or non-compete agreement at issue in the preliminary injunction motion. Therefore this request is not proportional to the needs of the preliminary injunction motion. FRP further objects to Request 2 on the grounds that Plaintiff's definition of "communication" seeks documents that are not relevant to the subject matter of this lawsuit, including the claims and defenses asserted in this lawsuit, and therefore it is not reasonably calculated to lead to the

discovery of admissible evidence. Subject to and without waiving the foregoing objections, and as limited thereby, FRP will produce meeting minutes, its articles of incorporation, and its by-laws in response to Request 2. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

3. All Documents, ESI, Communications, and Other Things related to any programming policies, assessment tool(s), and transition program(s) you created or were created on your behalf.

RESPONSE: In addition to its General Objections, FRP objects to Request 3 to the extent that it seeks documents protected by the attorney-client privilege or attorney work-product doctrine. FRP further objects to Request 3 as overbroad and unduly burdensome because Plaintiff is seeking documents without regard as to whether the documents are relevant to alleged use of the trademarks. Plaintiff also concedes that Plaintiff and FRP's services do not overlap and therefore the scope of documents requested is not relevant to the preliminary injunction motion and Request 3 is therefore not proportional to the needs of the preliminary injunction motion. There is also no legal basis for Plaintiff to request "communications" or "other things" as being relevant to a likelihood of consumer confusion analysis because such documents are not necessarily public-facing documents. Therefore Request 3 is not reasonably calculated to lead to the discovery of admissible evidence and it is not proportional to the needs of the preliminary injunction motion. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

4. All Documents, ESI, Communications, and Other Things regarding any public events, seminars, classes, workshops, lectures, etc., that you planned, executed, participated in, or attended since May of 2018.

RESPONSE: In addition to its General Objections, FRP objects to Request 4 as overbroad and unduly burdensome on the grounds that it seeks documents not relevant to the subject matter of this lawsuit because Plaintiff is seeking documents without regard as to whether the documents are relevant to alleged use of the trademarks. FRP further objects to Request 4 on the grounds that it seeks documents that are not public-facing documents and the request is therefore not relevant to a likelihood of consumer confusion analysis. Accordingly this request seeks documents not proportional to the needs of the preliminary injunction motion. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019..

5. All Documents, ESI, Communications, and Other Things regarding any exit services, networking services, counseling services, or any other services you provided since May of 2018.

RESPONSE: In addition to its General Objections, FRP objects to Request 5 as overly broad and unduly burdensome on the grounds that it seeks documents not relevant to the subject matter of this lawsuit because the “services” provided by FRP and Plaintiff are not the same. Plaintiff has conceded that Plaintiff and Defendants do not provide the same services and/or Plaintiff has not established that the above categories of “services” are all subject to the preliminary injunction motion, Request 5 is therefore not reasonably calculated to lead to the discovery of admissible evidence and it is not proportional to the needs of the preliminary injunction motion. FRP further objects to Request 5 to the extent it seeks to infringe on the privacy of those individuals that have received any exit or counseling services and/or personal identifying information that could place said individuals in danger with the organizations they were formerly a part of. FRP further objects to Request 5 as duplicative of Requests 3 and 4.

Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further responding, on February 8, 2019, FRP supplemented its response to Request 5 consistent with the Court's order February 7, 2019 order (dkt. 59).

6. All Documents, ESI, and Other Things related to interventions you performed, created, developed, or expanded since May 2018.

RESPONSE: In addition to its General Objections, FRP objects to Request 6 as overly broad and unduly burdensome on the grounds that it seeks documents not relevant to the subject matter of the preliminary injunction motion because it requests documents whether or not they are related to use of the trademarks, which is use is Plaintiff's sole basis for seeking a preliminary injunction. It is also unclear why an internal or external communication relating to an intervention is proportional to the needs of the preliminary injunction motion because, again, the documents do not necessarily have anything to do with use of the trademarks, and because these are not consumer-facing documents. Request 6 is therefore not reasonably calculated to lead to the discovery of admissible evidence. FRP further objects to Request 6 as overbroad on the grounds that it seeks documents not proportional to the needs of this lawsuit. FRP further objects to Request 6 to the extent it seeks to infringe on the privacy of those individuals that have received any exit or counseling services and/or personal identifying information that could place said individuals in danger with the organizations they were formerly a part of. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

7. All Documents, ESI, Communications, and Other Things related to formal training that your employees, volunteers, contractors, agents, or those associated with Free Radicals Project Inc. received to conduct outreach efforts since May 2018.

RESPONSE: In addition to its General Objections, FRP objects to Request 7 as overly broad and unduly burdensome on the grounds that it seeks documents relating to “formal training” even where such documents are not relevant to the alleged use of the trademarks. Further, any “formal training” is not a basis for which Plaintiff seeks injunctive relief and the type of training these individuals receive is not subject a likelihood of consumer confusion analysis. Subject to and without waiving its general and specific objections, and as limited thereby, FRP will produce responsive documents that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

8. All of FRP’s bank records from May of 2018 through the present.

RESPONSE: In addition to its General Objections, FRP objects to Request 8 as overly broad and unduly burdensome on the grounds that it seeks documents that are not relevant to preliminary injunction motion. Bank records, which are not consumer-facing documents, and which do not include use of the trademarks, are not reasonably calculated to lead to the discovery of admissible evidence. Moreover, it is unclear, for example, how a bank record showing a payment to a vendor, which is necessarily subsumed in this request, would be necessary to analyze the existence of consumer confusion. As such, Request 8 is overbroad on the grounds that it requests documents that are not proportional to the needs of the preliminary injunction motion. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

9. All donor acknowledgement letters, email, or other records from May of 2018 through the present.

RESPONSE: In addition to its General Objections, FRP objects to Request 9 as vague and ambiguous on the grounds that the terms “other records” are not defined and FRP cannot ascertain the meaning Plaintiff attaches to them. FRP further objects to Request 9 as overly broad and unduly burdensome on the grounds that it seeks each and every document and communication that may be remotely associated with FRP, whether or not it relates to the subject matter of this lawsuit. FRP further objects to Request 9 on the grounds that Plaintiff has not defined the class of “consumers” that Plaintiff claims are confused for purposes of its preliminary injunction motion and, accordingly, because donors are not consumers Plaintiff is seeking documents that are not proportional to the needs of the preliminary injunction motion. Subject to and without waiving the foregoing objections, and as limited thereby, FRP will produce donor acknowledgement letters it prepared from May of 2018 through the present that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

10. All Documents, ESI, Communications, and Other Things related to your source(s) of funding, any fundraising campaigns, and any donations and/or gifts made to Free Radicals Project Inc. from May of 2018 through the present.

RESPONSE: In addition to its General Objections, FRP objects to Request 10 as overly broad and unduly burdensome on the grounds that it seeks documents that are not relevant to the subject matter of the preliminary injunction motion because documents relating to “sources” of funding or communications on sources of funding are requested, whether or not they concern use of the trademarks, which is the sole, limited subject of Plaintiff’s preliminary injunction motion.

Sources of funding should not even be at issue in the preliminary injunction motion because Plaintiff seeks injunctive relief and to the extent Plaintiff seeks monetary information, then Plaintiff is abusing the preliminary injunction motion to pry into FRP's finances. Further, Plaintiff has not defined the class of individuals that are "consumers" and therefore it is unclear how or why donations/gifts that are from any person or entity that does not use FRP's services is relevant to a likelihood of consumer confusion analysis. FRP further objects to Request 10 as overbroad on the grounds that it seeks documents not proportional to the needs of this lawsuit. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

11. All Documents, ESI, and Other Things regarding your expenditures, invoices, and financial agreements related to both private and government sources, since May 2018.

RESPONSE: In addition to its General Objections, FRP objects to Request 11 as overly broad and unduly burdensome on the grounds that it seeks documents that are not relevant to the subject matter of the preliminary injunction motion. It is unclear how Plaintiff contends that each and every expenditure, financial agreement, or invoice is relevant to use of the trademarks. Indeed, Plaintiff is requesting all such documents irrespective of whether or not they concern use of the trademarks. Taking Plaintiff's request to its logical conclusion, under the scope of Plaintiff's request, FRP would be required to produce a receipt for coffee it purchased for a meeting. This request clearly seeks documents not proportional to the needs of the preliminary injunction motion. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

12. All Documents, ESI, Communications, and Other Things related to the creation, negotiation, acquisition, registration, or any subsequent transfer of the Domain Name or the Trademarks.

RESPONSE: Subject to FRP's General Objections, and as limited thereby, FRP will produce responsive documents that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

13. All Documents, ESI, Communications, and Other Things related to the use of the Trademarks on or in any website, social media, trade show, presentation, speech, marketing, or advertising since May of 2018.

RESPONSE: In addition to its General Objections, FRP objects to Request 13 as vague and ambiguous on the grounds that the term "use" is undefined and FRP cannot ascertain the meaning Plaintiff attaches to it and what documents, if any, Plaintiff contends are responsive to Request 13. Subject to and without waiving its general and specific objections, and as limited thereby, FRP will produce documents responsive to Request 13 in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

14. All Documents, ESI, Communications, and Other Things related to the use of the Domain Name since May of 2018.

RESPONSE: In addition to its General Objections, FRP objects to Request 14 as being moot. The Domain Name is non-functioning/not in use and therefore it cannot provide a basis for Plaintiff to seek a preliminary injunction motion. FRP further objects to Request 14 as vague and ambiguous on the grounds that the term "use" is undefined and FRP cannot ascertain the

meaning Plaintiff attaches to it and what documents, if any, Plaintiff contends are responsive to Request 14. FRP further objects to Request 14 as overly broad and unduly burdensome on the grounds that, as written, Request 14 seeks the production of documents relating to any person or entity's "use" of the Domain Name, which would include Plaintiff and unknown third-parties, where such documents are not and could not be in FRP's possession, custody, or control. Subject to and without waiving its general and specific objections, and as limited thereby, FRP will produce documents responsive to Request 14 in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

15. All Documents, ESI, Communications, and Other Things related to any third party's inquiry regarding the ownership of the Domain Names, the Trademarks, ExitUSA, or whether FRP has any connection to Life After Hate, Inc.

RESPONSE: Subject to its General Objections, and as limited thereby, FRP will produce responsive documents that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

16. All Documents, ESI, Communications, and Other Things between you and GoDaddy regarding the Domain Name.

RESPONSE: Subject to its General Objections, and as limited thereby, FRP will produce responsive documents that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

17. All Documents, ESI, Communications, and Other Things related to any transition of administrative access to Plaintiff's online accounts including websites, email, Facebook accounts, YouTube accounts, Twitter accounts, and/or banking records.

RESPONSE: In addition to its General Objections, FRP objects to Request 17 on the grounds that any "banking records" are not relevant to the likelihood of consumer confusion that Plaintiff must establish in seeking a preliminary injunction. It is unclear, for example, how a "communication" that FRP has relating to access to "banking records" would ever be known to "consumers" of FRP's services that they could be confused based on who has access to a bank account and when they had access. FRP further objects to Request 17 on the grounds that there is no authority with regard to any factor considered in a likelihood of consumer confusion analysis that any consumer is ever aware of or even considers who has administrative access to any account and, further, Plaintiff does not allege that consumers are confused based on a transition of administrative access, but instead alleges there is confusion based on use of the Trademarks. Accordingly, Request 17 seeks documents that are not relevant to the subject matter of this lawsuit and Request 17 is not reasonably calculated to lead to the discovery of admissible evidence. FRP further objects to Request 17 as vague and ambiguous on the grounds that the term "transition" is undefined and Picciolini is unable to ascertain the meaning Plaintiff attaches to it and what documents Plaintiff contends are responsive to Request 17. Subject to its General Objections, and as limited thereby, FRP will produce responsive documents that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

18. All Documents, ESI, Communications, and Other Things related to the Web Analytics associated with the Domain Name and your online accounts including websites, Facebook accounts, YouTube accounts, and Twitter accounts.

RESPONSE: In addition to its General Objections, FRP objects to Request 18 as overly broad and unduly burdensome on the grounds that “web analytics” are not relevant to the subject matter of the preliminary injunction motion because the mere fact that a website’s data is recorded in some way is not relevant to establishing consumer confusion. For example, if data showed that there is web traffic associated with FRP’s website, assuming that is what Plaintiff means by “online account,” this request does not seek specific data showing that the existence of traffic is correlated to the trademarks that Plaintiff claims are at issue. Request 18 is therefore not reasonably calculated to lead to the discovery of admissible evidence. FRP further objects to Request 18 on the grounds that FRP is not in possession of “web analytics” and that such information or documents is procured from third parties who maintain such information, which makes the document equally accessible to Plaintiff. FRP further objects to Request 18 as overbroad on the grounds, for example, that an internal or external “communication” relating to “web analytics” is not considered under any factor utilized by the court in a preliminary injunction analysis, and that such communication does not involve the trademarks at issue. FRP further objects to Request 18 as overbroad on the grounds that it seeks documents that are not proportional to the needs of the preliminary injunction motion. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019. Further responding, on February 8, 2019, FRP supplemented its response to Request 18 consistent with the Court’s order February 7, 2019 order (dkt. 59).

19. All Documents, ESI, Communications, and Other Things related to all demands that were made upon you by Plaintiff or its agents to cease any alleged infringement of the Domain Name and/or the Trademarks.

RESPONSE: Subject to its General Objections, and as limited thereby, FRP will produce responsive documents that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

20. All Documents, ESI, Communications, and Other Things related to media inquiries to FRP that reference or inquire about the Trademarks, since May 2018.

RESPONSE: In addition to its general objections, FRP objects to Request 20 as overly broad and unduly burdensome because the “media” are not alleged to be consumers of FRP’s services and, accordingly, Plaintiff is seeking documents not proportional to the needs of the preliminary injunction motion. Subject to its general and specific objections, and as limited thereby, FRP will produce responsive documents that are in its possession, custody, and control. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

21. All Documents, ESI, Communications, and Other Things that you plan to present, use, reference, or rely upon at the preliminary injunction hearing.

RESPONSE: In addition to his General Objections, FRP objects to Request 21 as premature as the Court did not set any exhibit disclosure deadlines and Plaintiff did not request such relief from the Court. FRP will supplement its response to Request 21 at a time so ordered by the Court. Further, FRP objects to Request 21 to the extent that it seeks documents protected by attorney-client privilege and/or work product doctrine. FRP further objects on the grounds

that the term “rely upon” is ambiguous, undefined, unclear, and overly broad. Further responding, Christian Picciolini did identify, or was available to identify this information in his deposition of February 8, 2019.

Date: February 10, 2019

Respectfully submitted,

By: /s/ Eugene J. Geekie
Eugene J. Geekie (ARDC 6195060)
Joseph M. Kuo (ARDC 6216400)
Michael A. Jacobson (ARDC 6313122)
Danielle N. LaHee (ARDC 6327199)
SAUL EWING ARNSTEIN & LEHR LLP
161 N. Clark Street, Suite 4200
Chicago, Illinois 60601
(312) 876-7100
(312) 876-0288
eugene.geekie@saul.com
joseph.kuo@saul.com
michael.jacobson@saul.com
danielle.lahee@saul.com
*Attorneys for Defendants Free Radicals
Project Inc. and Christian Picciolini*

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2019, I served a copy of the foregoing document on all parties of record via electronic mail.

/s/ Michael A. Jacobson